Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Revisions of the Commission's Rules	)	CC Docket No. 94-102
To Ensure Compatibility with	)	
Enhanced 911 Emergency Calling Systems	)	
	)	

SPRINT PCS COMMENTS

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Summary of Comments

The process for implementing wireless E911 can be improved, and Sprint PCS identifies three concrete steps that the Commission can take to improve the process. Nonetheless, given the complexity of the task and the sheer number of parties involved, industry and the public safety community have accomplished much in a relatively short time. Indeed, the pace of wireless E911 implementation is proceeding at a pace far more rapidly than landline E911 systems were deployed.

The single most important step that the Commission can take to accelerate implementation of wireless E911 would be to permit CMRS providers to file federal tariffs. Federal tariffs would simplify PSAP/CMRS negotiations and reduce transaction costs, thereby accelerating E911 implementation and enabling both carriers and PSAPs to provide E911 service at a lower cost. Commission review of these tariffs would also ease PSAP mistrust over wireless E911 pricing and eliminate debates over which carrier costs are recoverable.

The Commission should also reaffirm the right of each carrier to select the most optimal E911 solution for its network. Although few PSAP personnel are experts in wireless networks, an increasing number of PSAPs are claiming a right to dictate what E911 solution all CMRS providers in a given area must use. Most CMRS providers operate regional or national networks, and it is unrealistic to expect CMRS providers to design and implement different Phase I solutions for each PSAP. Permitting each carrier to select is own optimal E911 solution does not impact PSAPs. To the contrary, NENA and

industry developed standards precisely so carriers could retain flexibility without impacting PSAP compatibility concerns.

Finally, the Commission should untangle the bottleneck that certain incumbent LECs possess over the provision of wireless E911 services. Some LECs have refused to unbundle their E911 networks and have forced CMRS providers to utilize (and pay for) services for which they have no use. Other LECs have recently increased their E911 connection fees substantially, realizing that CMRS providers have no choice but to connect to the LEC network in the provision of wireless E911. The Commission should confirm that the various components of a LEC's E911 network are network elements subject to Sections 251(c)(3) and 252(d)(2) of the Communications Act. Such action would ensure that CMRS providers pay for only that functionality that they use and that the rates for this functionality would be based on cost.

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SPRINT PCS COMMENTS

Sprint Spectrum L.P., d/b/a Sprint PCS ("Sprint PCS"), hereby responds to the Commission's invitation to comment on the E911 Report that CTIA, PCIA, APCO, NENA, and NASNA have submitted,[1] and to identify the steps that the Commission can take to accelerate implementation of Phase 1 wireless E911.[2]

I. The Commission Should Acknowledge the Substantial Success That Has Already Been Achieved to Date

The Commission apparently is of the view that the pace for implementation of Phase I wireless E911 has been "very slow."[3] While Sprint PCS believes that the

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[1] *See Public Notice,* "Wireless Telecommunications Bureau Requests Comment on Wireless E911 Report Filed by CTIA, PCIA, APCO, NENA, and NASNA on August 9, 1999," DA 99-1627 (Aug. 16, 1999). *See also Public Notice,* "Commission Seeks to Facilitate Wireless E911 Implementation and Requests a Report," FCC 99-132 (June 9, 1999); Report of CTIA, PCIA, APCO, NENA, and NASNA, CC Docket No. 94-102 (Aug. 9, 1999)("1999 E911 Report").

[2] In a departure from its customary practice, the Commission has not requested reply comments. The wireless E911 issues are important, numerous, and complex. Sprint PCS submits that the receipt of reply comments would both help ensure that the Commission takes the right steps in the right areas so that Phase 1 implementation can be accelerated and facilitate its expeditious resolution of the issues. Sprint PCS therefore encourages the Commission to consider establishing a date in the near future by which all interested parties may file reply comments.

[3] *Public Notice,* "Commission Seeks to Facilitate Wireless E911 Implementation and Requests a Report," FCC 99-132, at 3 (June 9, 1999).

process can be improved (and makes concrete proposals below), it must respectfully disagree with the Commission's assessment. Given the complexity of the task and the sheer number of parties involved, we — industry and public safety officials — have accomplished much in a relatively short time.

The Commission first imposed 911/E911 requirements on wireless carriers only three years ago.[4] Although the "mobile nature of wireless technology creates complexities for providing even basic 911 service,"[5] before the end of 1997 all broadband CMRS providers were supporting basic 911 service without call validation — improving call setup times and broadening the number of mobile users that can access basic 911 service.

Real and substantial progress has also been made with regard to enhanced 911 despite the fact that E911 presents "significant obstacles" for wireless carriers.[6] Within the past three years, industry and the public safety community have worked (often cooperatively) to enact E911 funding legislation in 24 states;[7] and in most states today CMRS providers have begun assessing E911 surcharges to begin raising the funds needed to support implementation and operation of the necessary E911 infrastructure. Industry and the public safety community have adopted technical standards for wireless E911 (Phase I and Phase II) so as to reduce costs while maximizing the flexibility afforded to

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[4] *See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems,* CC Docket No. 94-102, *Report and Order,* 11 FCC Rcd 18676 (July 26, 1996)("*E911 Report*"), *Memorandum Opinion and Order,* 12 FCC Rcd 22665 (Dec. 23, 1997)("*E911 Reconsideration Order*").

[5] *E911 Report,* 11 FCC Rcd at 18680 ¶ 7.

[6] *Id.*

both carriers and Public Safety Answering Points ("PSAPs"). Earlier this year, industry and California public safety officials successfully completed an extensive multi-PSAP, multi-vendor, multi-technology trial of Phase I wireless E911 capabilities,[8] and Phase I E911 services have been successfully launched and are now in operation in at least six states.[9] Moreover, recent developments in technology hold the promise of enabling certain CMRS providers to exceed the Commission's Phase II location requirements, while doing so at lower cost.[10]

The Commission bases its conclusion that E911 implementation has been "very slow" on the results of a 1998 survey indicating that only seven percent of PSAPs had requested Phase I E911 service.[11] These survey results, obtained only two years after the Commission's order, should be expected. E911 cannot be implemented without technical standards and funding authorization. While funding legislation is still required for some states,[12] in most areas of the country these important and necessary foundational components are now in place.

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[7] *See* 1999 E911 Report, Addendum B at B.1. In total, wireless E911 legislation has been enacted in 27 states. *See id.* at 4. In stark contrast, it took 10 years for the first nine states to adopt landline 911 legislation. *See* www.nena9-1-1.org/history3.htm.

[8] *See* California Department of General Services – Telecommunications Division, "Los Angeles County E9-1-1 Wireless Trial, Preliminary Draft Project Report" (March 31, 1999)("LA Wireless E911 Trial").

[9] To Sprint PCS' knowledge, Phase I services are operational in parts of Colorado, Georgia, Indiana, Minnesota, Oregon, and Texas.

[10] *See Public Notice,* "Wireless Bureau Requests Targeted Comment on Wireless E911 Phase II Automatic Location Identification Requirements," DA 99-1049 (June 1, 1999).

[11] *See Public Notice,* "Commission Seeks to Facilitate Wireless E911 Implementation and Requests a Report," FCC 99-132, at 3 (June 9, 1999).

[12] Substantial work is already underway in many of these states. *See* Omnipoint Comments 7 (Aug. 9, 1999)(noting that 18 additional states are excepted to adopt E911 cost recovery legislative this year alone).

Indeed, there is solid evidence that Phase I deployment is proceeding — and at a pace far more rapidly than E911 capabilities were added to landline networks. Sprint PCS and the other 11 wireless carriers using the same E911 contractor are "currently seeking to deploy Phase I service in conjunction with over 1400 requests for [Phase I E911] service from primary PSAPS."[13] To put these figures into perspective, nationwide landline 911 systems grew at an average rate of 70 new systems per year, and it took 20 years (from 1968 to 1987) before even half of all Americans had access to some type of landline 911 service.[14]

Sprint PCS does not mean to suggest that the implementation process cannot be improved. Sprint PCS identifies below three concrete steps that the Commission should adopt to accelerate the wide availability of Phase I E911 services. Nevertheless, given the complexity of the task and the involvement of thousands of carriers and public safety agencies, and especially compared to the implementation of 911/E911 in landline networks, everyone involved — this Commission, the public safety community, carriers, vendors, standards organizations, legislators — should be proud of their accomplishments over the last three years.

One final preliminary comment is in order. Implementation of E911 is a matter of local choice. Neither the Commission nor wireless carriers can require local jurisdictions to deploy E911.[15] As one would expect, different communities and government officials have reached different conclusions over whether to implement wireless

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[13] SCC Communications Comments at 2 (Aug. 9, 1999).

[14] *See* www.nena9-1-1.org/history3.htm.

[15] Indeed, there remain approximately 32 million Americans without access to even basic 911 service. *See* www.apcointl.org/gove/911position. html.

E911. For example, in April 1999 Missouri citizens by a 57%-to-43% vote decided that they did not want to add 50 cents monthly to CMRS bills to fund a wireless E911 program.[16] Similarly, the Hawaii legislature earlier this year enacted wireless E911 legislation, but the bill was vetoed by the governor in June in part because of the new debate over cost recovery. The State of California, after conducting an extensive trial, has apparently concluded that the costs of implementing Phase I exceed the benefits:

> We do not believe Phase I service alone . . . provides enough value to call takers to justify an immediate hurried implementation of the service. There are other much more economical and feasible transitional solutions for providing callback numbers and a form of location information for most wireless 9-1-1- calls made. * * * Though we considered the trial a success in demonstrating Phase I technical compliance, we are not yet at a point where we can recommend a rapid implementation of the service.[17]

The fact that some states and localities have decided not to implement Phase I at this time does not suggest that the Commission's E911 policies have failed or require wholesale revision. To the contrary, these decisions reaffirm the validity of this Commission's decision to delegate broad E911 authority to the impacted states and localities. By its mandate, the Commission has created a new opportunity for the public and public safety agencies. Because Sprint PCS and other CMRS carriers are required to support Phase I capabilities, the public and their government officials now have a choice they did not enjoy in the past: whether or not to implement wireless E911.

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[16] *See, e.g.,* Jefferson City Press Tribune, "Voters Reject 911 Number for Cell Phones" (April 7, 1999).

[17] *See* LA Phase I Trial Report at 59 and 64.

II. There Are Three Steps That the Commission Can Adopt To Accelerate Implementation of Phase I Wireless E911

Implementation of wireless E911 poses an administrative challenge on an unprecedented scale. There are thousands of PSAPs,[18] and under the current process a PSAP wanting to implement wireless E911 must often negotiate with four or more CMRS providers. The administrative challenge for national carriers like Sprint PCS is even more daunting. Sprint PCS must be prepared to negotiate with thousands of PSAPs, many of them simultaneously.[19]

The 1999 E911 Report notes that industry and the public safety community are discussing the development of a set of model contracts, procedures, and operating agreements for use as templates in PSAP/carrier negotiations.[20] Sprint PCS strongly endorses this effort. Model contracts, if adopted promptly, could both reduce transaction costs for all involved and accelerate E911 implementation. Sprint PCS suggests, however, that model contracts alone are not sufficient. As discussed below, there are three additional steps that the Commission should take to accelerate the implementation of wireless E911.

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[18] Just one of the PSAP associations, NENA, reports that its members operate 5,500 PSAPs. *See* www.nena9-1-1.org/legislation/wireless_e911.htm.

[19] The challenge is not simply the sheer number of agencies involved, it is also their general knowledge level. PSAP personnel understand the public safety business, but do not generally understand wireless technology or telecommunications regulation. Sprint PCS has discovered that in many cases a considerable amount of time must be expended educating PSAP personnel and, oftentimes, PSAP outside counsel. *See* SCC Comments at 3 (Aug. 9, 1999). Everyone benefits in the form of reduced transaction costs if the Commission can streamline the process without taking from PSAPs the right to decide whether to deploy wireless E911 and how to pay the associated costs.

[20] *See* 1999 E911 Report at 8.

A. The Commission Should Permit CMRS Providers to File Federal E911 Cost Recovery Tariffs

The single most important step that the Commission can take to accelerate implementation of wireless E911 would be to permit CMRS providers to file federal tariffs. Such E911 tariffs would outline the methods to be utilized in providing the service, the terms and conditions of the PSAP/carrier relationship, and the rates to be charged PSAPs for providing E911 services. Federal E911 tariffs would simplify PSAP/CMRS negotiations and reduce transaction costs, thereby accelerating E911 implementation and enabling carriers to provide E911 at a lower cost. Commission review of these tariffs would ease PSAP mistrust over wireless E911 pricing and eliminate debates over which costs are recoverable.

Sprint PCS incurs a variety of costs in implementing and operating E911. Some of these costs are incurred locally, some regionally, and some nationally. Sprint PCS has determined that the most equitable and cost-effective way to recover these costs is to adopt a national E911 pricing structure. Among other things, this approach avoids the need for Sprint PCS to devote time and resources allocating joint and common E911 costs to individual PSAP jurisdictions and avoids the complexity (and cost) associated with billing different PSAPs different rates. By spreading its E911 costs across its entire national subscriber base, Sprint PCS eliminates the price inequities of rural and urban implementation and solves the problem of "chunky" implementation costs.[21]

[21] For example, when E911 services are introduced in a given area, Sprint PCS incurs substantial upfront costs for engineering work on its mobile switching center ("MSC"). One MSC, however, may serve dozens of PSAPs. It would be inequitable to impose all of these "upfront" charges on the first PSAP requesting service in a given area. Accordingly, Sprint PCS spreads these costs across its entire subscriber base.

Many PSAPs, however, believe that they have the authority to determine which costs CMRS providers may or may not recover. These PSAPs attempt to break apart Sprint PCS' national pricing structure in order to pick and chose the portions of the costs they are willing to pay. Other jurisdictions suggest that they want to take over the engineering work the wireless carrier ordinarily conducts and refuse to reimburse the carrier if it does not turn over its network operations to the state. Yet other states attempt to negotiate separate contracts with Sprint PCS' vendors and avoid preexisting contracts. A national tariff structure would eliminate these debates and thereby accelerate E911 deployment.

The Commission has previously expressed concern about local governments and agencies creating a third tier of telecommunications regulation, noting that such regulation "will be met with close scrutiny by the Commission."[22] Moreover, with respect to CMRS, Congress has spoke in unmistakably clear terms: "[N]o State or local government shall have any authority to regulate . . . the rates charged by any commercial mobile service."[23] Thus, no PSAP or other public safety agency may regulate the costs incurred by CMRS carriers or otherwise establish, directly or indirectly, the rate that a CMRS may charge to recover these costs.

Legalities aside, PSAP efforts to engage in cost/rate regulation is counterproductive. PSAP attempts to micromanage every aspect of CMRS costs and deployment have only prolonged implementation. These delays and transaction costs will only increase if Sprint PCS is required to develop a separate E911 rate for each PSAP. The

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[22] *See TCI Cablevision,* 12 FCC Rcd 21396, 21442 ¶ 105 (1997); *Classic Telephone,* 12 FCC Rcd 15619, 15637 ¶ 34 (1997).

[23] 47 U.S.C. § 332(c)(3)(A).

costs incurred in attempting to allocate joint and common E911 costs to each PSAP alone would be staggering. The Commission should, therefore, reaffirm that no public safety agency or state may attempt to regulate the rates CMRS providers assess to recover these costs.

To assure the public safety community that its E911 rates are reasonable, and to help "jump start" E911 implementation, Sprint PCS is willing to submit federal E911 tariffs with appropriate cost support. PSAPs (or their) associations believing that Sprint PCS improperly included certain costs would then have the opportunity to challenge Sprint PCS' rates. The Commission would thereafter determine whether any non-recoverable costs were included and ensure that a carrier's costs are shared equitably. Once the tariff becomes effective, there would no longer be need for any of the thousands of PSAPs to question whether a particular carrier's E911 rate is just and reasonable.[24]

B. The Commission Should Reaffirm the Right of Each Carrier to Select the Most Optimal E911 Solution for Its Network

Although few PSAP personnel are experts in wireless technologies or telecommunications networks, an increasing number of PSAPs are claiming a right to dictate what E911 solution all CMRS providers in a given area must use.[25] The 1998 Annual

[24] It does not appear that FCC Rule 20.15(c), which prohibits CMRS providers from filing tariffs for "interstate service to their customers, or for interstate access service," stands as an obstacle to the use of tariffs for E911 service. E911 service to PSAPs is not exchange access, and the order adopting this rule made clear that the phrase "interstate service to their customers" applies to the services CMRS carriers provide to their retail customers, not PSAPs. *See Second CMRS Report,* 9 FCC Rcd 1411, 1478-81 ¶¶ 173-82 (1994). However, if the Commission determines that this rule does apply to the E911 services at issue here, it should grant industry a blanket waiver of this rule. None of the reasons the Commission relied upon in prohibiting retail tariffs applies in the context of 911 services to PSAPs.

[25] As SCC notes correctly, the dispute generally arises because "PSAPs often view themselves as the wireless carrier's 'customer' . . . [and] express the opinion that, since they are responsible for

E911 Report notes that the continuing uncertainty over who — PSAPs or carriers — selects the technology has been a "major impediment to the implementation of wireless E9-1-1."[26] The 1999 Report notes that this "technology choice" debate continues to be an impediment to wide scale E911 deployment.[27]

Some history is in order. In its 1996 *E911 Order,* the Commission directed CMRS providers to be prepared to support Phase 1 capabilities within 18 months.[28] The Commission later denied the request of several carriers to extend this deadline.[29] While stating that it would consider carrier-specific waivers, the Commission further directed CMRS providers to "explore all available options, *including non-LEC-based solutions*, before filing a waiver application."[30]

In response to this order, industry developed two different means by which CMRS providers can deliver Phase I data to PSAPs: (a) the "non-callpath associated signaling" ("NCAS") solution, which requires no update to the LEC network because the wireless Phase 1 data bypasses the LEC network; and (b) the "callpath associating signaling" ("CAS") solution, whereby the Phase 1 data is delivered through the LEC network and accordingly requires most LECs to upgrade their E911 networks.[31] Because

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paying for the service, they should be allowed to decide the technology the wireless carrier must use." SCC Comments at 4.

[26] Report of CTIA, PCIA, APCO, NENA, NASNA, Alliance, CC Docket No. 94-102, at 15 (Feb. 1, 1999)("1998 Annual E911 Report).

[27] *See* 1999 Report at 3.

[28] *See* 47 C.F.R. § 20.18(d) *E911 Order,* 11 FCC Rcd at 18708 ¶ 63.

[29] *See E911 Reconsideration Order,* 12 FRCC Rcd at 22716 ¶ 105.

[30] *Id.* at 22717 ¶ 107 (emphasis added).

[31] LEC networks were designed for handling landline E911 calls and as a result, were generally designed to transmit only eight digits to the PSAP. Phase I wireless data requires that LEC networks be capable of transmitting a total of 20 digits.

most LECs had not upgraded their E911 networks to accommodate CAS prior to the Phase 1 April 1, 1998 deadline, most CMRS providers had no choice but execute contracts with E911 service providers (SCC and XYPoint) to provide Phase I using NCAS. However, now that some LECs have upgraded their networks to accommodate CAS, some PSAPs want to preclude CMRS providers from using NCAS. In addition, some PSAPs want to require CMRS providers to use certain LEC functionality when they have already executed contracts with their E911 vendors to perform the same functionality (generally, at lower cost).

Most CMRS providers operate regional or national networks. It is unrealistic, particularly after each CMRS has developed a Phase I solution, to expect CMRS providers to design and implement different Phase I solutions for each PSAP. The complexity and cost of such an approach would be enormous — and would invariably delay rapid implementation of E911.

Importantly, permitting each carrier to select its own optimal E911 solution does not impact PSAPs and their operations. Indeed, industry (in conjunction with NENA) developed E911 standards precisely so carriers could retain flexibility without impacting PSAP compatibility concerns. Moreover, as AT&T points out, the recent Phase 1 E911 trial in Los Angeles now confirms that carrier technology choice is not inconsistent with PSAPs' desire for compatibility:

> The successful trial demonstrated the complete lack of interoperability problems often feared by the PSAP community, despite the use of multiple Phase I technical solutions (both callpath and non-callpath associated so-

lutions), multiple ALI database providers (GTE and Pacific Bell), and multiple 911 service providers (XYPoint and SCC).[32]

The Commission has already indicated its willingness to preempt divergent state or local technical and operational requirements because divergent requirements "would burden equipment manufacturers and carriers."[33] Sprint PCS does not believe that preemption is necessary at this point in time. However, much uncertainty and delay would be removed if the Commission declared unequivocally that each wireless carrier has the ultimate authority to chose the optimal E911 solution for its network.

C. The Commission Should Untangle the LEC Bottleneck Over the Provision of Wireless E911 Services

It has become apparent in hindsight that the 1996 Consensus Agreement between the wireless industry and the public safety community contained a major omission: it did not include the industry segment at the center of wireless E911 — incumbent LECs. Wireless carriers cannot provide E911 without accessing LEC E911 networks, and as discussed below, some LECs have impeded the timely and cost-effective implementation of wireless E911. Sprint PCS therefore agrees with the 1999 E911 Report and other commenters that the Commission should address the role the LECs play in wireless E911 implementation.[34]

The Commission must recognize that incumbent LECs possess bottleneck control over CMRS access to PSAPs. PSAPs already interconnect with incumbent LEC E911 networks at the LEC 911 tandem (or LEC 911 selective router), and they under-

[32] AT&T Comments at 3-4 (Aug. 9. 1999).

[33] *E911 Order*, 11 FCC Rcd at 18730 ¶ 105.

[34] *See* 1999 E911 Report at 18. *See also* SCC Comments at 6-7 AT&T Comments at 9-10.

standably do not want to establish additional and different trunk groups to numerous additional carriers.[35] As one PSAP has advised the Commission, "[w]ireless carriers will be required to interface to the existing E911 systems at the [LEC] E911 selective routers."[36] Because of their bottleneck control, LECs controlling E911 networks can dictate the terms under which CMRS providers access their E911 networks and, as a result, influence heavily CMRS E911 costs. Indeed, the Indiana E911 Board has determined that "the most significant cost driver for wireless Phase 1 service is the local wireline charges for connecting the wireless and wireline systems."[37]

The CMRS industry has encountered several problems with certain LECs. First, some LECs are in the process of upgrading their antiquated E911 selective routers.[38] While this is certainly a welcome development, some LECs want the CMRS industry to fund this entire improvement. Other LECs have attempted to bundle database management services and other additives with connectivity to the PSAP, requiring CMRS carriers to pay for services already provided by other vendors.

The Commission required CMRS providers to support Phase 1 by April 1, 1998. Most LEC E911 networks at that time were incapable of handling Phase I data,

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[35] It would be grossly inefficient for each competitive carrier (whether CMRS or CLEC) to install a separate trunk group to each PSAP.

[36] King County E911 Program Comments at 5.

[37] Washington State, "Enhanced 911 Funding Study," at 5-6 (Dec. 31, 1998). *See also id.* at 5-8 ("The wireless interconnection costs with the local phone companies are high. The prices keep going up.").

[38] As the 1999 E911 Report notes (at 16), most LEC E911 routers use CAMA signaling, a protocol developed over 50 years ago for use with cross-bar toll switches. *See* AT&T Bell Laboratories, *Engineering and Operations in the Bell System*, at 451 (2d ed. 1983). Among other things, CAMA signaling limits the amount of information that can be transmitted to a PSAP (eight digits vs. the 20 required for ALI data), and results in lengthy call-set-up times, especially when compared to use of the now prevalent CCS/SS7 method.

and it was precisely for this reason that the CMRS industry developed the NCAS solution. Now that the CMRS industry has implemented NCAS, some LECs have decided to modify their E911 networks so that CMRS carriers have the "option" of using the CAS solution instead. Sprint PCS certainly does not oppose having increased options, but it is unreasonable for incumbent LECs to require CMRS providers to fund the upgrade of their E911 networks so they can support CAS, when CMRS providers have no use for the feature because they have already modified their networks to use the NCAS solution. The Commission should therefore require LECs to unbundle the functionality of their E911 routers so competitive carriers pay for only the functionality they use.

The Commission should affirm that the various components of a LEC's E911 network are network elements subject to Sections 251(c)(3) and 252(d)(1) of the Communications Act.[39] PSAPs and wireless carriers should pay for only those services they choose to purchase. This Commission action would ensure that the various components of a LEC's E911 network are available to all competitive carriers on an unbundled basis and at prices that are reasonable.

III. A Brief Response to APCO's Comments

A brief response is necessary to APCO's separate statement to the 1999 E911 Report.[40] Unlike other public safety associations (NENA and NASNA), APCO urges the Commission to scrap the current wireless E911 implementation and cost recovery process in favor of a radically new approach.

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[39] The Commission's *First Local Competition Order*, 11 FCC Rcd 15499, 15706 n.914, 11 FCC Rcd 15731 ¶ 470 (1996), is less than clear on this point, and some LECs have used this ambiguity to deny that their E911 network is subject to the network element unbundling and pricing rules.

[40] *See* APCO Addendum Regarding Cost Recovery, 1999 E911 Report, Addendum A.

APCO asserts that current process is defective because carriers "have little or no incentive to select the most cost-effective [E911] approach" and may actually attempt to "gold-plate" their networks. CMRS carriers operate in competitive markets and this competition gives each carrier ample incentive to deploy the most cost-effective E911 solution — if only to improve its competitive posture *vis-à-vis* its competitors. APCO's statement merely reflects the unfounded mistrust discussed above. Sprint PCS suggests that this mistrust can be resolved by adopting the tariff proposal previously outlined.

APCO further asserts that the "cost-recovery requirement has been one of the most significant impediments to Phase I."[41] This assertion is not credible. Indeed, APCO itself acknowledges that states have been able "to act expeditiously and adopt reasonable and workable cost-recovery procedures."[42] Sprint PCS agrees with NENA that "cost recovery is not the primary impediment to the deployment of Phase I services" and that the primary impediment has instead been "the uncertainty surrounding the entire PSAP-wireless carrier relationship."[43]

Finally, the Commission should not adopt APCO's "bill and keep" proposal. In addition to the reasons cited by NENA, studies of the issue demonstrate that "bill and keep" is "not economically neutral," does "not guarantee that there will be a

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[41] *Id.* at 1.

[42] *Id.* at 4.

[43] NENA Addendum Regarding Cost Recovery, 1999 E911 Report, Addendum B at 2.

stable funding source for wireless E911 and for that reason it is not the best funding mechanism for wireless E911."[44]

However, even if "bill and keep" were an approach that the Commission should have considered when it adopted its wireless E911 rules in 1996, it is certainly not an approach that the Commission should implement now — after industry and the public safety community have expended such considerable (and largely successful) effort in laying the groundwork for Phase I. Although APCO proposes that "bill and keep" would be only an additional option that states could consider, in fact, extending "bill and keep" as an option would delay E911 implementation, as many states would reevaluate their plans. As AT&T has correctly observed, "[r]adical changes to the cost recovery requirement at this point would only stall, not stimulate, the Phase I process by forcing carriers and PSAPs back to square one of their negotiations."[45]

IV. Conclusion

The issue involving wireless E911 implementation, as one public safety office noted recently, is "not an issue of good vs. bad, right vs. wrong, or control. It is an issue of finding our way out of a field of land mines, and finding solutions to enable delivery of a critical and long overdue service."[46] As NENA correctly points out, the primary impediment to Phase I deployment has been "the uncertainty surrounding the entire PSAP-wireless carrier relationship."[47] Sprint PCS recommends that the Commission (1)

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[44] Washington State, "Enhanced 911 Funding Study," at 7-3 (Dec. 31, 1998).

[45] AT&T Comments at 11.

[46] Joe Hanna, "Wireless 9-1-1: Time for Reconsideration," *Radio Resource Magazine* at 138 (Aug. 1999).

[47] NENA Addendum Regarding Cost Recovery, 1999 E911 Report, Addendum B at 2.

permit national E911 tariffs, (2) reaffirm carrier control of technology, and (3) order LECs to provide unbundled access to the E911 network.

Respectfully submitted

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September 14, 1999

Certificate of Service

I, Anthony Traini, hereby certify that on this 14th day of September, 1999, I caused copies of the foregoing "Sprint PCS Comments" to be sent by the following by either first clause mail, postage prepaid, or by hand delivery (*):

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